

REMARKS

Applicant has carefully reviewed the Application in light of the Final Office Action mailed November 16, 2009. At the time of the Office Action, Claims 1-5, 25 and 27-33 were pending in the Application and stand rejected. Applicant respectfully requests reconsideration of the pending claims and favorable action in this case.

Section 103 Rejection

The Examiner rejects Claims 1-3, 25, 27-29 and 32-33 under 35 U.S.C. §103(a) as being anticipated U.S. Publication No. 2002/0107843 issued to Biebesheimer (hereinafter "*Biebesheimer*") in view of U.S. Patent No. 6,978,297 issued to Piersol (hereinafter "*Piersol*") and further in view of U.S. Publication No. 2005/0021715 issued to Dugatkin (hereinafter "*Dugatkin*"). The Examiner also rejects Claims 4 and 30 under 35 U.S.C. §103(a) as being unpatentable over *Biebesheimer* in view of *Piersol* in view of *Dugatkin* and in further view of U.S. Patent No. 7,185,192 issued to Khan (hereinafter "*Khan*"). The Examiner further rejects Claim 5 and 31 under 35 U.S.C. §103(a) as being unpatentable over *Biebesheimer* in view of *Piersol* in view of *Dugatkin* and in further view of Microsoft Outlook 2000© 1995-2000 (hereinafter "*Outlook*").

Applicant respectfully reminds the Examiner that to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation; either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the prior art reference (or references when combined) must teach or suggest all of the claim limitations.¹ It is respectfully submitted that the rejected claims are patentable over the art of record based on at least the third

¹ See M.P.E.P. §2142-43.

criterion of obviousness: none of the references alone or in combination teach, suggest, or disclose each claim limitation of the Independent Claims.

Applicant adamantly disagrees with the Examiner's position. In an effort to expedite the prosecution of this case, Applicant has elected to make a modest amendment. Independent Claim 1, as amended, outlines (*inter alia*) "...the capture rule is part of a default rule set for the capture system configured to monitor network traffic and capture the objects..." No reference discloses a default rule set for a capture system configured to monitor network traffic and capture the objects defined in Independent Claim 1. All of these important limitations are provided for in Independent Claim 1, but no reference of record includes such elements. Applicant has reviewed the cited references and finds nothing that would be relevant to these teachings.

For at least these reasons, Independent Claim 1 is allowable over any cited reference, or combination of references. The other Independent Claims recite limitations similar, but not identical, to those recited in Independent Claim 1. Therefore, these claims are also allowable, for example, for the same reasons as identified above. Additionally, the corresponding dependent claims from these Independent Claims are also patentably distinct for analogous reasons. Notice to this effect is respectfully requested in the form of a full allowance of these claims.

CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicant respectfully requests reconsideration and allowance of the pending claims.

No additional fees are believed due. However, please apply any other charges or credit any overpayment to Deposit Account No. 50-4889 of PATENT CAPITAL GROUP, referencing the attorney docket number referenced above.

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicant invites the Examiner to contact Thomas J. Frame at (214) 823-1241.

Respectfully submitted,

Patent Capital Group
Attorneys for Applicant

/Thomas J. Frame/

Thomas J. Frame
Reg. No. 47,232

Date: January 18, 2010

Customer No. 78855